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9 Environmental Research Center

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12 SUPERIOR COURT OF CALIFORNIA  
13 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

14 ENVIRONMENTAL RESEARCH )  
15 CENTER, a California non-profit )  
16 corporation, )

17 Plaintiff, )

18 vs. )

19 ATRIUM, INC., FULL GREEN CIRCLE )  
20 CORPORATION, FULL GREEN )  
21 CIRCLE LLC, PUREFORMULAS.COM, )  
22 and DOES 1-50, Inclusive, )

23 Defendants. )

Case No.: 30-2012-00606444-CU-MC-CJC

[PROPOSED] STIPULATED CONSENT  
JUDGMENT; [PROPOSED] ORDER

[Health & Safety Code § 25249.5, *et seq.*]

24 **1. INTRODUCTION**

25 1. This Action arises out of the alleged violations of California's Safe Drinking  
26 Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5  
27 *et seq.* (also known as and herein after referred to as "Proposition 65") regarding the following  
28 products:

a. Atrium Inc. atri-res

- 1           b. Atrium Inc. garcinia cambogia plus
- 2           c. Atrium Inc. atri-thy-kelp
- 3           d. Atrium Inc. comfrey b&p
- 4           e. Atrium Inc. atri-cleanse
- 5           f. Atrium Inc. Parasit-X
- 6           g. Atrium Inc. Chitosan HD Plus
- 7           h. Atrium Inc. spirulina
- 8           i. Atrium Inc. fibertime
- 9           j. Atrium Inc. Val-Tran
- 10          k. Atrium Inc. Atri-Nerve

11           **1.1** Plaintiff Environmental Research Center, Inc. (“ERC”) is a California non-profit  
12 corporation acting as a private enforcer of Proposition 65 that is dedicated to, among other  
13 causes, helping safeguard the public from health hazards by reducing the use and misuse of  
14 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,  
15 and encouraging corporate responsibility. ERC brings this Action in the public interest pursuant  
16 to California Health and Safety Code Section 25249.7.

17           **1.2** Defendant FULL GREEN CIRCLE CORPORATION is a Florida corporation, is  
18 successor-in-interest to Full Green Circle, LLC, and does business as PureFormulas.com  
19 (collectively “PURE FORMULAS”). At all relevant times, for purposes of this Consent  
20 Judgment, PURE FORMULAS employed ten or more persons, was a “person in the course of  
21 doing business” within the meaning of Proposition 65, and sold one or more of the Covered  
22 Products.

23           **1.3** Only ERC and PURE FORMULAS, and no other person, entity, or business, are  
24 hereinafter sometimes referred to individually as a “Party” or collectively as the “Parties.”

25           **1.4** On March 8, 2012, pursuant to California Health and Safety Code Section  
26 25249.7(d)(1), ERC served a Notice of Violations of Proposition 65 on the California Attorney  
27 General, other public enforcers, and PURE FORMULAS (“Notice of Violations”). The Notice of  
28 Violations, which is attached hereto as Exhibit “A”, pertained to the following products

1 (hereinafter collectively the “Covered Products” or “Covered Product” to refer to a single  
2 product):

- 3 1. Atrium Inc. atri-cleanse
- 4 2. Atrium Inc. Parasit-X
- 5 3. Atrium Inc. Chitosan HD Plus
- 6 4. Atrium Inc. fibertime
- 7 5. Atrium Inc. Val-Tran
- 8 6. Atrium Inc. Atri-Nerve

9 **1.5** After more than sixty (60) days passed since service of the Notice of Violations,  
10 and no designated governmental agency filed a complaint against PURE FORMULAS with  
11 regard to the Covered Products or the alleged violations, ERC filed the Complaint in this Action  
12 (the “Complaint”) for injunctive relief and civil penalties against PURE FORMULAS and other  
13 Defendants. The allegations in the Complaint against PURE FORMULAS are based on the  
14 allegations in the Notice of Violations.

15 **1.6** The Complaint and the Notice of Violations allege that PURE FORMULAS  
16 manufactured, distributed, and/or sold in California Covered Products, which contain lead, a  
17 chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and expose  
18 consumers at a level requiring a Proposition 65 warning. They further allege that use of the  
19 Covered Products exposes persons in California to lead without first providing clear and  
20 reasonable warnings, in violation of California Health and Safety Code Section 25249.6. PURE  
21 FORMULAS denies all material allegations of the Notices of Violation and the Complaint,  
22 asserts numerous affirmative defenses, and specifically denies that the Covered Products require  
23 a Proposition 65 warning or otherwise cause harm to any person.

24 **1.7** This Consent Judgment is only between ERC and PURE FORMULAS and is not  
25 intended to apply to, and has no affect on, any other Defendant in this or any other case,  
26 including, including but not limited to Atrium, Inc. or Aspen Group, Inc.

27 **1.8** The Parties enter into this Consent Judgment in order to settle, compromise and  
28 resolve disputed claims and avoid prolonged and costly litigation. Nothing in this Consent

1 Judgment, nor compliance with its terms, shall constitute or be construed as an admission by any  
2 of the Parties, or by any of their respective officers, directors, shareholders, employees, agents,  
3 parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors,  
4 wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault,  
5 wrongdoing, or liability, including without limitation, any admission concerning any alleged  
6 violation of Proposition 65. Except as expressly set forth herein, nothing in this Consent  
7 Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties  
8 may have in any other or future legal proceeding unrelated to these proceedings. However,  
9 nothing in this Section shall affect the enforceability of this Consent Judgment.

10 **1.9** The “Effective Date” of this Consent Judgment shall be the date this Consent  
11 Judgment is entered by the Court.

## 12 **2. JURISDICTION AND VENUE**

13 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
14 jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties, that  
15 venue is proper in this Court, and that this Court has jurisdiction to enter this Consent Judgment  
16 pursuant to the terms set forth herein.

## 17 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING, AND WARNINGS**

18 **3.1** Effective immediately PURE FORMULAS will not offer for sale in California,  
19 directly sell to a consumer in California, or “Distribute into California” any of the Covered  
20 Products.

## 21 **4. SETTLEMENT PAYMENT**

22 **4.1** PURE FORMULAS shall make a total payment of \$15,000.00 within 10 business  
23 days of the Effective Date, which shall be in full and final satisfaction of all potential civil  
24 penalties, and attorney’s fees and costs. The payment will be made by separate checks to the  
25 following parties, and the payments shall be apportioned as follows:

26 **4.2** \$500.00 as civil penalties pursuant to California Health and Safety Code Section  
27 25249.7(b)(1). Of this amount, 75% [\$375.00] shall be payable to the Office of Environmental  
28 Health Hazard Assessment (“OEHHA”), and 25% \$[125.00] shall be payable to ERC. ERC’s

1 counsel will forward the civil penalty to OEHHA.

2           **4.3**     \$7,115.00 as reimbursement for reasonable costs associated with the enforcement  
3 of Proposition 65 and other costs incurred as a result of work in bringing this Action. (Cal.  
4 Health & Safety Code § 25249.12(c)(1) & (d)).

5           **4.4**     \$7,385.00 payable to William F. Wraith as reimbursement of ERC’s attorney’s  
6 fees and costs.

7 Except as provided herein, the Parties shall otherwise be responsible for their own costs,  
8 expenses, and attorneys’ fees.

9 **5. MODIFICATION OF CONSENT JUDGMENT**

10           This Consent Judgment may be modified only (i) by written stipulation of the Parties and  
11 (ii) upon entry by the Court of a modified consent judgment. ERC is entitled to reimbursement of  
12 all reasonable attorney’s fees and costs regarding any modification requested or initiated by  
13 PURE FORMULAS.

14 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

15           **6.1**     This Court shall retain jurisdiction of this matter to enforce, modify or terminate  
16 this Consent Judgment.

17           **6.2**     Any Party may, by motion or application for an order to show cause filed with  
18 this Court, enforce the terms and conditions contained in this Consent Judgment. The prevailing  
19 party in any such motion or application may request that the Court award its reasonable  
20 attorneys’ fees and costs associated with such motion or application.

21 **7. APPLICATION OF CONSENT JUDGMENT**

22           This Consent Judgment shall apply to, be binding upon, and benefit the Parties and their  
23 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
24 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,  
25 wholesalers, retailers, predecessors, successors, and assigns, though it is not intended to apply to,  
26 and has no affect on, any other Defendant in this or any other case, including but not limited to  
27 Atrium, Inc. or Aspen Group, Inc.

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1 **7. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

2 **8.1** ERC, acting on its own behalf and in the public interest, releases only PURE  
3 FORMULAS and its respective officers, directors, shareholders, employees, agents, parent  
4 companies, subsidiaries, divisions, and predecessors, successors and assigns, from all claims for  
5 violations of Proposition 65 up through the Effective Date based on exposure to lead from the  
6 Covered Products as set forth in the Notices of Violations and the Complaint. Notwithstanding  
7 the above, this Release is not intended to apply to, and has no affect on, any other Defendant in  
8 this case, including but not limited to Atrium, Inc. or Aspen Group, Inc.

9 **8.2** Compliance with the terms of this Consent Judgment by PURE FORMULAS  
10 shall be deemed to constitute compliance with Proposition 65 regarding alleged exposures to  
11 lead in the Covered Products as set forth in the Notice of Violations and Complaint.

12 **8.3 Unknown Claims**

13 It is possible that other claims not known to the Parties arising out of the facts alleged in  
14 the Notices of Violations or the Complaint and relating to lead in the Covered Products that were  
15 manufactured before the Effective Date will develop or be discovered. ERC, on behalf of itself  
16 only, acknowledges that this Consent Judgment acknowledges the claims released herein may  
17 include unknown claims against PURE FORMULAS, and nevertheless waives California Civil  
18 Code Section 1542 only as to PURE FORMULAS as to any such unknown claims. California  
19 Civil Code Section 1542 reads as follows:

20 **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
21 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**  
22 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN**  
23 **BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER**  
24 **SETTLEMENT WITH THE DEBTOR.”**

25 **8.4** ERC, on one hand, and PURE FORMULAS, on the other hand, each release and  
26 waive all claims they may have against each other for any statements or actions made or  
27 undertaken by them in connection with the Notices of Violations or the Complaint. However,  
28 this shall not affect or limit any Party’s right to seek to enforce the terms of this Consent

1 Judgment.

2 **9. CONSTRUCTION AND SEVERABILITY**

3 **9.1** The terms and conditions of this Consent Judgment have been reviewed by the  
4 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to  
5 fully discuss the terms and conditions with its counsel. In any subsequent interpretation or  
6 construction of this Consent Judgment, the terms and conditions shall not be construed against  
7 any Party.

8 **9.2** In the event that any of the provisions of this Consent Judgment is held by a court  
9 to be unenforceable, the validity of the remaining enforceable provisions shall not be adversely  
10 affected.

11 **9.3** The terms and conditions of this Consent Judgment shall be governed by and  
12 construed in accordance with the laws of the State of California.

13 **10. PROVISION OF NOTICE**

14 All notices required to be given to either Party to this Consent Judgment by the other  
15 shall be in writing and sent to the following agents listed below by: (a) first-class, registered, (b)  
16 certified mail, (b) overnight courier, or (c) personal delivery to the following

17 **For Environmental Research Center**  
18 Chris Heptinstall, Executive Director  
19 Environmental Research Center  
3111 Camino Del Rio North, Suite 400  
San Diego, CA 92108

20 With a copy to -

21 William F. Wraith, Esq.  
22 Wraith Law  
16485 Laguna Canyon Road, Suite 250  
23 Irvine, CA 92618

24 **For FULL GREEN CIRCLE CORPORATION, successor in interest to Full Green Circle,  
LLC, and doing business as PureFormulas.com (collectively, "PURE FORMULAS")**

25 Jose L. Prendes  
26 CEO  
Full Green Circle Corporation  
27 c/o PureFormulas.com  
11800 NW 102 Road  
28 Suite 2  
Medley, Florida 33718

1 With a copy to –

2 Michael T. Hornak, Esq.  
3 Rutan & Tucker  
4 611 Anton Blvd., Ste. 1400  
5 Costa Mesa, CA 92626

5 **11. COURT APPROVAL**

6 **11.1** Upon execution of this Consent Judgment by the Parties, ERC shall file a Motion  
7 for Court Approval. The Parties shall use their best efforts to support entry of this Consent  
8 Judgment.

9 **11.2** If the California Attorney General objects to any term in this Consent Judgment,  
10 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
11 prior to the hearing on the motion.

12 **11.3** If the Court, despite the Parties' best efforts, does not approve this Stipulated  
13 Consent Judgment, it shall be null and void and have no force or effect.

14 **12. EXECUTION AND COUNTERPARTS**

15 This Stipulated Consent Judgment may be executed in counterparts, which taken together  
16 shall be deemed one document. A facsimile or pdf signature shall be construed as valid and as  
17 the original signature.

18 **13. ENTIRE AGREEMENT, AUTHORIZATION**

19 **13.1** This Consent Judgment contains the sole and entire agreement and understanding  
20 of the Parties with respect to the entire subject matter herein, and any and all prior discussions,  
21 negotiations, commitments and understandings related hereto. No representations, oral or  
22 otherwise, express or implied, other than those contained herein have been made by any Party.  
23 No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to  
24 exist or to bind any Party.

25 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized  
26 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly  
27 provided herein, each Party shall bear its own fees and costs.

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1 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

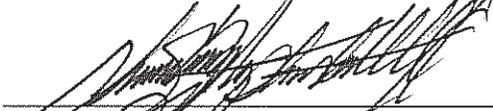
2 **14.1** This Consent Judgment has come before the Court upon the request of the Parties.  
3 The Parties request the Court to fully review this Consent Judgment and, being fully informed  
4 regarding the matters which are the subject of this action, to:

5 (a) Find that the terms and provisions of this Consent Judgment represent a good  
6 faith settlement of all matters raised by the allegations of the Complaint, that the matter has been  
7 diligently prosecuted, and that the public interest is served by such settlement; and

8 (b) Make the findings pursuant to California Health and Safety Code Section  
9 25249.7(f)(4) and approve the settlement and this Consent Judgment.

10 **IT IS SO STIPULATED:**

11 **ENVIRONMENTAL RESEARCH CENTER**

12   
13 \_\_\_\_\_  
14 Chris Heptinstall, Executive Director

Dated: 10/2/2013

15 **FULL GREEN CIRCLE CORPORATION, for itself, as successor in interest to Full Green**  
16 **Circle, LLC, and doing business as PureFormulas.com**

17 \_\_\_\_\_  
18 Jose L. Prendes, Chief Executive Officer

Dated: \_\_\_\_\_

19 **APPROVED AS TO FORM:**

20 **WRAITH LAW**

21 \_\_\_\_\_  
22 William F. Wraith  
23 Counsel for Environmental Research Center

Dated: \_\_\_\_\_

24 **RUTAN & TUCKER LLP**

25 \_\_\_\_\_  
26 By Michael T. Hornak  
27 Counsel for Full Green Circle Corporation

Dated: \_\_\_\_\_

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11 **ENVIRONMENTAL RESEARCH CENTER**

12  
13 \_\_\_\_\_ Dated: \_\_\_\_\_  
14 Chris Heptinstall, Executive Director

15 **FULL GREEN CIRCLE CORPORATION, for itself, as successor in interest to Full Green**  
16 **Circle, LLC, and doing business as PureFormulas.com**

17  
18 \_\_\_\_\_ Dated: \_\_\_\_\_  
19 Jose L. Prendes, Chief Executive Officer

20 **APPROVED AS TO FORM:**

21 **WRAITH LAW**

22  Dated: October 3, 2013  
23 \_\_\_\_\_  
24 William F. Wraith  
25 Counsel for Environmental Research Center

26 **RUTAN & TUCKER LLP**

27 \_\_\_\_\_ Dated: \_\_\_\_\_  
28 By Michael T. Hornak  
Counsel for Full Green Circle Corporation

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6 faith settlement of all matters raised by the allegations of the Complaint, that the matter has been  
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8 (b) Make the findings pursuant to California Health and Safety Code Section  
9 25249.7(f)(4) and approve the settlement and this Consent Judgment.

10 **IT IS SO STIPULATED:**

11 **ENVIRONMENTAL RESEARCH CENTER**

12  
13 \_\_\_\_\_ Dated: \_\_\_\_\_  
14 Chris Heptinstall, Executive Director

15 **FULL GREEN CIRCLE CORPORATION, for itself, as successor in interest to Full Green**  
16 **Circle, LLC, and doing business as PureFormulas.com**

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18 \_\_\_\_\_ Dated: 10-3-13  
19 Jose L. Prendes, Chief Executive Officer

20 **APPROVED AS TO FORM:**

21 **WRAITH LAW**

22  
23 \_\_\_\_\_ Dated: \_\_\_\_\_  
24 William F. Wraith  
25 Counsel for Environmental Research Center

26 **RUTAN & TUCKER LLP**

27 \_\_\_\_\_ Dated: 10-4-13  
28 By Michael T. Hornak  
Counsel for Full Green Circle Corporation

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**ORDER AND JUDGMENT**

Based upon the Parties’ Stipulation, and good cause appearing therefor, this Consent Judgment is approved and judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge, Superior Court of the State of California